

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

WHEATLAND INDUSTRIES, LLC, a  
Nebraska limited liability company;

Plaintiff,

vs.

JULIE SESTAK, Perkins County  
Treasurer; PEGGY BURTON, Perkins  
County Assessor; PERKINS COUNTY  
SCHOOLS, VILLAGE OF MADRID  
NEBRASKA, MADRID CEMETERY,  
MADRID FIRE DISTRICT,  
EDUCATIONAL SERVICE UNIT NO. 16,  
MID-PLAINS COLLEGE, UPPER  
REPUBLICAN NATURAL RESOURCE  
DISTRICT, PERKINS COUNTY  
HOSPITAL, PERKINS BOARD OF  
EQUALIZATION, and PERKINS  
COUNTY, a political subdivision in  
Nebraska;

Defendants.

**8:20CV237**

**ORDER**

On June 19, 2020, Plaintiff Wheatland Industries, LLC filed its complaint, naming as defendants Julie Sestak, as Perkins County Treasurer; Peggy Burton, as Perkins County Assessor; Perkins County Schools; Village of Madrid, Nebraska; Madrid Cemetery; Madrid Fire District; Educational Service Unit No. 16; Mid-Plains College; the Upper Republican Natural Resource District; Perkins County Hospital; Perkins County Board of Equalization; and Perkins County. (Filing No. 1).

After some initial service errors, Plaintiff filed executed summonses for all Defendants, with the exception of Perkins County, for which Plaintiff never requested that a summon issue, and Mid-Plains College, for which Plaintiff never filed a notice with the court indicating that it had achieved service.<sup>1</sup> (Filing Nos. 12-16, 19-21, and 29-31).

Defendants Julie Sestak, as Perkins County Treasurer; Peggy Burton, as Perkins County Assessor; Perkins County Schools; Village of Madrid, Nebraska; Madrid Cemetery; Educational Service Unit No. 16; Mid-Plains College; Perkins County Board of Equalization; and Perkins County have answered or otherwise responded to Plaintiff's Complaint. (Filing Nos. 41-42, 44, 46, and 50). It appears, however, that Defendants Upper Republican Natural Resource District, Madrid Fire District, and Perkins County Hospital have not.

It occurs to the court that, given the nature of this case and the various political entities named, it is possible that certain of the above answers or motions may have been intended to encompass a response from one or all of the non-appearing defendants. It is also possible that no such intention exists. Accordingly, the court will order that the parties clarify whether Defendants Upper Republican Natural Resource District, Madrid Fire District and Perkins County Hospital intended to respond or are in default.

IT IS ORDERED:

- 1) On or before September 28, 2020, if any attorney of record intended for a previously filed motion or answer to encompass a response on behalf of Defendants Upper Republican Natural Resource District,

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<sup>1</sup> Both Perkins County and Mid-Plains College have appeared, rendering moot any service error as to those defendants.

Madrid Fire District or Perkins County Hospital, that attorney shall file a notice of record clarifying that intention.

- 2) On or before October 5, 2020, Plaintiff may respond in opposition to any notice filed by a defendant pursuant to this order, and if Plaintiff believes that none of the previously filed answers or motions encompass a response from Defendants Upper Republican Natural Resource District, Madrid Fire District or Perkins County Hospital, Plaintiff must show cause why this case should not be dismissed for want of prosecution of those defendants.
- 3) In light of the above, Plaintiff's motion to extend, (Filing No. 52) is granted. The court finds good cause to extend Plaintiff's deadline to file response briefs in opposition to the motions to dismiss at Filing Nos. 42, 44 and 46 and hereby extends Plaintiff's response deadline to October 8, 2020.

Dated this 21st day of September, 2020.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge